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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,762	04/14/2004	Peter James McCann	2100.006300	6722
7590 Terry D. Morgan, Williams, Morgan & Amerson, P.C. Suite 1100 10333 Richmond Houston, TX 77042			EXAMINER LE, NHAN T	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 10/17/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/824,762

Applicant(s)

MCCANN ET AL.

Examiner

NHAN T. LE

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakatsugawa et al (US 20030144001) in view of Menzel et al (US 20030176187).

As to claim 1, Nakatsugawa teaches a method for controlling communications to an access terminal, comprising: applying a first treatment to a packet flow and transmitting the first treated packet flow to a first base station for transmission over an air interface to the access terminal (see fig. 3, number 72, paragraphs 0084-0099); and applying a second treatment to a duplicate of the packet flow and transmitting the second treated duplicate packet flow to a second base station for transmission over an air interface to the access terminal during a hand off period (see fig. 3, number 73, paragraphs 0084-0099) in which the access terminal is handing off from the first base station to the second base station. Nakatsugawa fails to teach wherein the transmission of the first treated packet flow to the first base station occurs concurrently with the transmission of the treated duplicated packet flow to the second base station. Menzel teaches wherein the transmission of the first treated packet flow to the first base station occurs concurrently with the transmission of the treated duplicated packet flow to the second base station (see fig. 4, paragraphs 0055-0058). Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Menzel into the system of Nakatsugawa in order to allow the matching and optimization of the process of passing on the data in the data transmission system to be carried out in a simplified way.

As to claim 2, the combination of Nakatsugawa and Menzel teaches wherein the first and second treatments are maintained in a data structure in a router (see Nakatsugawa fig. 3, numbers 72, 73, paragraphs 0084-0099) wherein the data structure indicates a mapping between the first and the second treatment and information packet flow and wherein applying the first treatment to the packet flow comprises selecting the first treatment using the information in the packet flow and the data structure (see Menzel paragraphs 0057, 0058, each of the IP address of duplicators represent two or more IP addresses to which the IP address should be passed during the duplication process).

As to claim 3, the combination of Nakatsugawa and Menzel teaches wherein the data structure is maintained or updated according to commands or instructions from one or more radio network controllers (see Nakatsugawa fig. 8, numbers 300, 400, paragraphs 0011-0017).

As to claim 4, the combination of Nakatsugawa and Menzel teaches wherein the data structure is maintained or updated according to commands or instructions from the access terminal (see Nakatsugawa fig. 3, instruct transmission from block 72 to block 73, paragraphs 0084-0099).

As to claim 5, the combination of Nakatsugawa and Menzel teaches wherein the first treatment is used for packet flows destined to the first base station (see Nakatsugawa fig. 3, number 75, paragraphs 0084-0099) and the second treatment is used for packet flows destined to the second base station (see Nakatsugawa fig. 3, number 75, paragraphs 0084-0099).

As to claim 6, the combination of Nakatsugawa and Menzel teaches wherein the first treatment is removed from the data structure after the completion of the hand off from a first base station to a second base station (see Nakatsugawa fig. 8, numbers 300, 400, paragraphs 0011-0017).

As to claim 7, the combination of Nakatsugawa and Menzel teaches where the first treatment remains resident in the data structure after the completion of the hand off from a first base station to a second base station, so that it remains available for use in the event of a ping pong hand off back to the first base station (see Nakatsugawa fig. 8, numbers p4, p9, paragraphs 0011-0017).

As to claim 8, the combination of Nakatsugawa and Menzel teaches where the first and second treatments comprise a packet data protocol context mapping (see paragraphs Nakatsugawa 0084-0099 Menzel paragraphs 0057, 0058).

As to claim 9, the combination of Nakatsugawa and Menzel teaches a method of controlling communications from an access terminal, comprising: applying a first treatment to a packet flow while attached to a first base station (see fig. 3, number 72, paragraphs 0084-0099); applying a second treatment to a duplicate packet flow while attached to a second base station during a hand off period (see fig. 3, number 73,

paragraphs 0084-0099) in which the access terminal is handling off from the first base station to the second base station. Nakatsugawa fails to teach wherein the first treated packet flow is transmitted to the first base station currently with the transmission of the treated packet flow to the second base station. Menzel wherein the first treated packet flow is transmitted to the first base station currently with the transmission of the treated packet flow to the second base station (see fig. 4, paragraphs 0055-0058). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Menzel into the system of Nakatsugawa in order to allow the matching and optimization of the process of passing on the data in the data transmission system to be carried out in a simplified way.

As to claim 10, the combination of Nakatsugawa and Menzel teaches wherein the first and second treatments are maintained in a data structure within the access terminal (see Nakatsugawa fig. 3, numbers 72, 73, paragraphs 0084-0099) wherein the data structure indicates a mapping between the first and the second treatment and information packet flow and wherein applying the first treatment to the packet flow comprises selecting the first treatment using the information in the packet flow and the data structure (see Menzel paragraphs 0057, 0058, each of the IP address of duplicators represent two or more IP addresses to which the IP address should be passed during the duplication process).

As to claim 11, the combination of Nakatsugawa and Menzel teaches wherein the data structure is maintained according to commands or instructions from one or

more radio network controllers (see Nakatsugawa fig. 8, numbers 300, 400, paragraphs 0011-0017).

As to claim 12, the combination of Nakatsugawa and Menzel teaches wherein the data structure is maintained according to commands or instructions from one or more routers (see Nakatsugawa fig. 3, numbers 72, 73, paragraphs 0084-0099).

As to claim 13, the combination of Nakatsugawa and Menzel teaches wherein the first treatment is used for packet flows destined to the first base station (see Nakatsugawa fig. 3, number 75, paragraphs 0084-0099) and the second treatment is used for packet flows destined to the second base station (see Nakatsugawa fig. 3, number 75, paragraphs 0084-0099).

As to claim 14, the combination of Nakatsugawa and Menzel teaches wherein the first treatment is removed from the data structure after the completion of the hand off from a first base station to a second base station (see Nakatsugawa paragraphs 0084-0099).

As to claim 15, the combination of Nakatsugawa and Menzel teaches where the first treatment remains resident in the data structure after the completion of the hand off from a first base station to a second base station, so that it remains available for use in the event of a ping pong hand off back to the first base station (see Nakatsugawa paragraphs 0084-0099).

As to claim 16, the combination of Nakatsugawa and Menzel teaches wherein the first and second treatments comprise one a packet data protocol context mapping (see Nakatsugawa paragraphs 0084-0099 Menzel paragraphs 0057, 0058).

Response to Arguments

2. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhan T. Le whose telephone number is 571-272-7892. The examiner can normally be reached on 08:00-05:00 (Mon-Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nhan T Le/

Patent Examiner, Art Unit 2618

Nhan T. Le